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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

WEB-32060

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on

September 12, 2005

Signature

Jere L. Hawk

Typed or printed name

Jere L. Hawk

Application Number

10/626,013

Filed

07/24/2003

First Named Inventor

Liping Guo

Art Unit

1772

Examiner

Nasser Ahmad

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

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The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

SEP 13 2005

I am the

☐

applicant/inventor.

☐

assignee of record of the entire interest.

See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

☒

attorney or agent of record.

45188

Registration number

☐

attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34

Alan E. Wagner
Signature

Alan E. Wagner

Typed or printed name

414-273-2100

Telephone number

September 12, 2005
Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.

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PATENT

Attorney Docket No. WHB-32060

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of : GUO, Liping, et al.
 Serial No. : 10/626,013
 Filing Date : July 24, 2003
 For : Tamper-Evident, Heat Resistant Cast Label Stock
 Confirmation No. : 9950
 Group Unit : 1772
 Examiner : AHMAD, Nasser
 Customer No. : 022202

CERTIFICATION UNDER 37 CFR 1.8(a) and 1.10

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37 CFR 1.8(a)

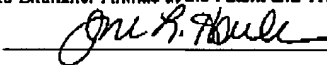
37 CFR 1.10

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Date: September 12, 2005



Commissioner for Patents
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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Dear Sir:

COMMENTS

These Comments accompany the Pre-Appeal Brief Request for Review filed concurrently with the Notice of Appeal for this case.

The invention is a tamper-evident, heat resistant cast label sheet consisting essentially of a specified construction. The Applicants believe that the primary error of the rejection is that the prior art does not teach or suggest a label sheet limited to the elements specified in the claims.

The Examiner rejected claims 1-2, 4-14, and 16-30 under 35 U.S.C. § 102(b) as being anticipated by Akhter (US 5,958,537) and Claims 1-30 under 35 U.S.C. § 103(a) as being unpatentable over Akhter. The crux of the Examiner's reasoning is that "Akhter relates to a label stock consisting essentially of a facesheet layer of phenoxy or polyester binder resin, a pressure sensitive adhesive (PSA) adhered to the facesheet layer and covered with a release liner." (Office Action of 12/14/04, internal cites omitted).

MKE/1068767.1

GUO, Liping

USSN: 10/626,013

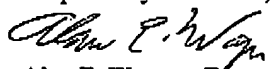
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The Applicant believes that the reason that the Examiner's argument fails, and must fail, is that the Examiner must read out an element of the label disclosed in Akhter in order to match the label construction defined in the pending claims. Specifically, Akhter teaches a label that "consists essentially of: A. a ... backing layer having ... [a] first surface adapted to carry printed information; B. a primer layer ...; and C. a pressure sensitive adhesive layer...." Column 1, line 66 through column 2, line 18. As such, Akhter is teaching a 3-layer label construction (exclusive of the release liner). However, a third layer (exclusive of the release liner) is expressly excluded in the claim language by the "consisting essentially of" transition. This argument is more fully fleshed out on pages 2-3 of the Response Under 37 C.F.R. §1.111, filed on April 8, 2005.

Moreover, the omission of the third label layer, as taught in Akhter, is not an insubstantial design choice but, rather, provides a significant advantage for certain applications. Specifically, the construction of the inventive label usefully provides tamper-evident features to the label as described and claimed. Again, please see page 3 of the Response filed April 8, 2005.

For the reasons outlined above and argued more fully in the Response of April 8, 2005, the Applicants believe that Claims 1-30 are allowable.

Respectfully submitted,


 Alan E. Wagner, Esq.
 Registration No. 45,188
Dated: September 12, 2005P.O. ADDRESS:

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